

# HOUSE BILL No. 1369

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-18.5-13; IC 36-8-11.

**Synopsis:** Fire protection district emergency borrowing. Authorizes emergency short term borrowing by a fire protection district and an excessive levy appeal for a fire protection district that borrows for three consecutive years.

**Effective:** July 1, 2005.

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**Tincher, Ruppel**

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January 13, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1369

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-18.5-13 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. With respect to an  
3 appeal filed under section 12 of this chapter, the local government tax  
4 control board may recommend that a civil taxing unit receive any one  
5 (1) or more of the following types of relief:  
6 (1) Permission to the civil taxing unit to increase its levy in excess  
7 of the limitations established under section 3 of this chapter, if in  
8 the judgment of the local government tax control board the  
9 increase is reasonably necessary due to increased costs of the civil  
10 taxing unit resulting from annexation, consolidation, or other  
11 extensions of governmental services by the civil taxing unit to  
12 additional geographic areas or persons.  
13 (2) Permission to the civil taxing unit to increase its levy in excess  
14 of the limitations established under section 3 of this chapter, if the  
15 local government tax control board finds that the civil taxing unit  
16 needs the increase to meet the civil taxing unit's share of the costs  
17 of operating a court established by statute enacted after December



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31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

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1 STEP SIX: Divide the STEP THREE amount by the STEP  
2 FIVE amount.

3 The civil taxing unit may increase its levy by a percentage not  
4 greater than the percentage by which the STEP THREE amount  
5 exceeds the percentage by which the civil taxing unit may  
6 increase its levy under section 3 of this chapter based on the  
7 assessed value growth quotient determined under section 2 of this  
8 chapter.

9 (4) Permission to the civil taxing unit to increase its levy in excess  
10 of the limitations established under section 3 of this chapter, if the  
11 local government tax control board finds that the civil taxing unit  
12 needs the increase to pay the costs of furnishing fire protection for  
13 the civil taxing unit through a volunteer fire department. For  
14 purposes of determining a township's need for an increased levy,  
15 the local government tax control board shall not consider the  
16 amount of money borrowed under IC 36-6-6-14 during the  
17 immediately preceding calendar year. However, any increase in  
18 the amount of the civil taxing unit's levy recommended by the  
19 local government tax control board under this subdivision for the  
20 ensuing calendar year may not exceed the lesser of:

- 21 (A) ten thousand dollars (\$10,000); or  
22 (B) twenty percent (20%) of:  
23 (i) the amount authorized for operating expenses of a  
24 volunteer fire department in the budget of the civil taxing  
25 unit for the immediately preceding calendar year; plus  
26 (ii) the amount of any additional appropriations authorized  
27 during that calendar year for the civil taxing unit's use in  
28 paying operating expenses of a volunteer fire department  
29 under this chapter; minus  
30 (iii) the amount of money borrowed under IC 36-6-6-14  
31 during that calendar year for the civil taxing unit's use in  
32 paying operating expenses of a volunteer fire department.

33 (5) Permission to a civil taxing unit to increase its levy in excess  
34 of the limitations established under section 3 of this chapter in  
35 order to raise revenues for pension payments and contributions  
36 the civil taxing unit is required to make under IC 36-8. The  
37 maximum increase in a civil taxing unit's levy that may be  
38 recommended under this subdivision for an ensuing calendar year  
39 equals the amount, if any, by which the pension payments and  
40 contributions the civil taxing unit is required to make under  
41 IC 36-8 during the ensuing calendar year exceeds the product of  
42 one and one-tenth (1.1) multiplied by the pension payments and

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contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's ~~poor relief~~ **township assistance** ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing ~~poor relief~~ **township assistance** under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's ~~poor relief~~ **township assistance** ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this

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chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

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(B) that operates a county jail or juvenile detention center that is subject to an order that:

- (i) was issued by a federal district court; and
- (ii) has not been terminated;

(C) that operates a county jail that fails to meet:

- (i) American Correctional Association Jail Construction Standards; and
- (ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local

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government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

**(13) Permission for a fire protection district to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the district has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-8-11-18.5. The maximum increase in a fire protection district's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-8-11-18.5 during the preceding three (3) calendar years. A fire protection district may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular fire protection district may appeal to increase its levy under this section not more frequently than every fourth calendar year.**

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SECTION 2. IC 36-8-11-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18.5. The board may hold a special meeting under section 13(b) of this chapter to determine whether there is an emergency requiring the expenditure of money not included in the fire protection district's budget estimates and levy. Subject to section 18.7 of this chapter, if the board finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the fire protection district to borrow a specified amount of money sufficient to meet the emergency. The board may authorize the fiscal officer to borrow a specified sum from a fire protection district fund other than the fire protection district general fund. At its next annual session, the board shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this section.**

SECTION 3. IC 36-8-11-18.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18.7. (a) If the legislative body issues a special order under section 18.5 of this chapter authorizing the fire protection district to borrow money, not less than ten (10) taxpayers in the fire protection district who disagree with the special order may file a petition in the office of the county auditor not later than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order is unnecessary or unwise.**

**(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not earlier than five (5) and not later than thirty (30) days after the receipt of the certified documents.**

**(c) The hearing shall be held in the county where the petition arose.**

**(d) The department of local government finance shall give notice of the hearing by letter to:**

- (1) the district; and**
  - (2) the first ten (10) taxpayer petitioners listed on the petition at each taxpayer's usual place of residence;**
- at least five (5) days before the date of the hearing.**

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1       (e) A:  
2           (1) taxpayer who signed a petition filed under subsection (a);  
3           or  
4           (2) fire protection district against which a petition under  
5           subsection (a) is filed;  
6       may petition for judicial review of the final determination of the  
7       department of local government finance on the petition. The  
8       petition must be filed in the tax court not later than forty-five (45)  
9       days after the date of the department's final determination.

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